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87-1320

Supreme Court, U.S.
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CLERK

NO.

SUPREME COURT OF THE UNITED STATES

October Term, 1987

IN RE THE MARRIAGE OF

JEAN ROSENBAUM,

Appellant, acting Pro Se,

and

KURT ROSENBAUM,

Appellee.

APPEAL FROM THE APPELLATE COURT

OF ILLINOIS, FIRST DISTRICT

JURISDICTIONAL STATEMENT

Jean Rosenbaum, Pro Se

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Chicago, Illinois 60626

973-6047 (312)

A. QUESTIONS PRESENTED.

The main questions presented by this appeal are if Appellant, JEAN ROSENBAUM (hereinafter referred to as "Wife"), has had her Federal Constitutional rights under the United States Constitution, Amendments I, V, IX and XIV, violated by the following acts and omissions of the Appellate Court of Illinois, First District, which permitted the trial court decisions on appeal to remain unchanged, as follows:

1. If Appellate Court's dismissal of Wife's appeal with only vague statements totally non-specific in nature, which it refused to clarify upon request, violated Wife's rights under the aforestated Constitutional Amendments?

2. If Appellate Court's dismissal of Wife's appeal after she timely-filed a Brief, without requiring KURT ROSEN-

BAUM, Appellee therein (hereinafter referred to as "Husband") to file a Brief, to which Wife could reply to clarify matters, violated Wife's rights under the aforestated Constitutional Amendments?

3. If Appellate Court's total disregard and lack of comment on properly entered Constitutional issues, both State and Federal, relating to Illinois Family Law Statutes pertinent to this cause, violated Wife's rights under the aforestated Constitutional Amendments? The Statutes are as follows:

a) Ill. Rev. Stat. (1985), Ch. 40, Sec. 401(a)(2), effective July 1, 1984, involving no-fault divorce, that permits one spouse to divorce the other after a two-year separation irregardless of the number of children involved. The constitutionality of this Statute under the Federal Constitution has been challenged;

b) Ill. Rev. Stat. (1985), Ch. 40, Sec. 402(a)(b), Legal Separation. This Act requires a spouse who needs and wants support from an affluent partner, to seek a legal separation of the family to enforce support rights to which the spouse is legally entitled. This is despite the fact that legal separation involves loss of other family rights. The constitutionality of this Statute under the Federal Constitution has been challenged.

4. If Appellate Court's total disregard and lack of comment, in its final Orders, of the many conflicts between the decisions sought to be reviewed, and other pertinent, applicable Court decisions in Illinois, as well as guideline Statutes and conflicting new law, violated Wife's rights under the aforestated Constitutional Amendments?

6. If Appellate Court's complete disregard of Wife's highly important and specific issues involved in her SECTION 2-1401 PETITION,[1] which, based on new facts, sought to vacate (or alter) the JUDGMENT OF DISSOLUTION OF MARRIAGE entered December 19, 1983, and her plea for an evidentiary hearing to which she was entitled under Illinois decisions, violated Wife's rights under the aforestated Amendments I, V, IX and XIV of the United States Constitution?

7. If Appellate Court's complete disregard in its final Order of Wife's claim that assignment of her SECTION 2-1401 PETITION for hearing to trial

1/ Filed under Ill. Rev. Stat. (1985), Ch. 110, Sec. 2-1401, that provides relief from judgments after 30 days but within two years, time of legal disability, duress and fraudulent concealment to be excluded.

Judge Daniel Ryan, who was in impaired health and suddenly died during the hearings, created prejudice against her cause, violated Wife's rights under the aforestated Amendments to the Constitution?

8. If Appellate Court's allegation in its May 19, 1987 Order, that the error in its RULE 23 ORDER entered March 5, 1985, (and in its related Mandate to trial court),"in no way affected the procedural or substantive rights or remedies of JEAN ROSENBAUM, and her appeal and subsequent proceedings were in no way affected thereby .... that neither party would be affected by the "mechanical" corrective change".... violated Wife's rights under the aforestated Constitutional Amendments?

9. If the denial by the Second Division of the Appellate Court of Wife's timely request for a change of venue,

when her appeal was assigned to that Division for review, violated Wife's rights under the aforestated Constitutional Amendments?

Additional questions submitted under the identical Federal Constitutional clauses, are:

10. If the written, unsigned Orders entered by the Supreme Court of Illinois can be considered truly valid Orders, and if they violate Wife's rights under the aforestated Constitutional Amendments?

11. If the JUDGMENT OF DISSOLUTION OF MARRIAGE, originally appealed during an overlapping time period when new Illinois family law became effective, but which does not fulfill the requirements of either old or new law, is a valid JUDGMENT under the United States Constitution, Amendments V and XIV?

B. PARTIES TO THE PROCEEDING.

Parties to the proceeding in the Appellate Court of Illinois, First District, and their designations, were identical to those set forth in the caption of this document. In trial court, Wife was Respondent, acting Pro Se, and in the Illinois Supreme Court, she was the Petitioner, acting Pro Se.

C. TABLE OF CONTENTS.

		pages
A.	QUESTIONS PRESENTED BY THE APPEAL	1-6
B.	PARTIES TO THE PROCEEDING	7
C.	TABLE OF CONTENTS	7-8
	TABLE OF AUTHORITIES	8-15
D.	OPINIONS BELOW	16
E.	JURISDICTIONAL GROUNDS	17-40
I.	Nature of the Proceeding	17-28
II.	Dates of Judgments for Which Review is Sought	28-30
III.	Statutory Provisions	

		Pages
	Conveying Jurisdiction on This Court	30-40
F.	CONSTITUTIONAL PROVISIONS AND STATE OF ILLINOIS STATUTES INVOLVED	41-45
G.	STATEMENT OF THE CASE	46-63
H.	THE QUESTIONS ARE SUBSTANTIAL	63-67
I.	APPENDIX	A-Q
	Table of Contents	i-ii
	APPELLANT'S AFFIDAVIT	End

TABLE OF AUTHORITIES

A.	QUESTIONS PRESENTED BY THE APPEAL:	
	Illinois Statutes	
	Ill. Rev. Stat. (1985), Ch. 40, Sec. 401(a)(2) ..	2
	Ill. Rev. Stat. (1985), Ch. 40, Sec. 402(a)(b) ..	3

Pages

Ill. Rev. Stat. (1985),
Ch. 110, Sec. 2-1401 4

U. S. Constitution
Amendments I, V, IX, XIV ... 1,4,6

D. OPINIONS BELOW:

Cases

Rosenbaum v. Rosenbaum,
(1st Dist. 1976), 38 Ill.
App. 3d 1, 349 N.E.2d 73 . 16

E. JURISDICTIONAL GROUNDS:

I. Nature of Proceeding:

Cases

In Re Marriage of Brooks,
(1st Dist. 1985), 138
Ill. App. 3d 252 23

Rosenbaum v. Rosenbaum,
(1st Dist. 1976), 38 Ill.
App. 3d 1, 349 N.E. 2d 73. 17

	Pages
Woodrow v. Quaid (1920), 292 Ill. 27, 126 N.E. 583	25

Statutes

Ill. Rev. Stat. (1981), Ch. 40, Par. 401	17
Ill. Rev. Stat. (1985), Ch. 40, Par. 401(a)(2).	18,26-27
Ill. Rev. Stat. (1985), Ch. 40, Par. 402(a)(b).	27
Ill. Rev. Stat. (1985), Ch. 110, Sec. 2-1401 ..	19,24
Ill. Ann. Stat. (1986-87), Ch. 110-A, Rule 19	23,24

III. Statutory Provisions Conveying Jurisdiction on this Court:

28 U.S.C.§1257(2)(3).	30-31
28 U.S.C.§2101(c) .	31

Pages

28 U.S.C.§2103 31,36

28 U.S.C.§2106 31

28 U.S.C.§2403(b) 32

Cases

Brooklyn Savings Bank v. O'Neil (1945), 324 U.S. 697, 65 S.Ct. 895 40

Bumper v. State of North Carolina (1968), 391 U.S. 543, 88 S.Ct. 1788 36-37

Carlson v. Curtiss (1914), 234 U.S. 103, 34 S.Ct. 717 . 40

Silkwood v. Kerr McGee Corp. (1984), 464 U.S. 238, 104 S.Ct. 615 36

Statutes

Ill. Rev. Stat. (198), Ch. 40, Sec. 401 (P.A. 83-954). 33

Ill. Rev. Stat. (198), Ch. 40, Par. 402 33-34

	Pages
Ill. Rev. Stat. (1985), Ch. 110, Par. 2-1001	37
Ill. Ann. Stat. (1986-87), Ch. 110-A, Rule 19	35
Ill. Rev. Stat. (1985), Ch. 110-A, Rule 370(a) ...	37
United States Constitution	
Amendment V	39
Amendment XIV	38,39

F. CONSTITUTIONAL PROVISIONS AND STATE OF ILLINOIS STATUTES INVOLVED:

Ill. Rev. Stat. (1985), Ch. 40, Sec. 401(a)(1)(2)	43-45
Ill. Rev. Stat. (1985), Ch. 40, Sec. 402(a)(b) ..	45
U. S. Constitution, Amendment I	41

Pages

Amendment V 41-42

Amendment IX 42

Amendment XIV 42-43

G. STATEMENT OF THE CASE: —

Cases

Blackwell v. Welti (1st Dist. 1964), 46 Ill. App. 2d 453, 197 N.E. 2d 126 . 53

Brown v. Ohio (1977), 432 U.S. 161, 97 S.Ct. 2221 59-60

Child v. Beame (D.C. N.Y. 1976), 412 F.Supp. 593 .. 60-61

Loving v. Com. of Virginia (1967), 388 U.S. 1, 87 S.Ct. 1817 60

Place v. Improvement Federal Savings & Loan Association (1962),

	Pages
24 Ill. 2d 245, 181 N.E. 2d 94	52-53
Roe v. Wade (1973), 410 U.S. 113, 93 S.Ct. 705 ...	61
Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73	59
Woodrow v. Quaid (1920) 292 Ill. 27, 126 N.E. 583.	53
Statutes	
Ill. Rev. Stat. (1985),	
Ch. 40, Sec. 401(a)(2) ...	47
Ch. 40, Sec. 402	48,62
Ch. 110, Par. 2-1001	55
Ch. 110, Sec. 2-1401(b) ..	56
Ch. 110-A, Rule 370(a) ...	55,56

Pages

United States Constitution

Amendment I 47,50,61,62

Amendment V 47,49,50,55,

(Cont.) 59,60,62

Amendment IX 47,50,61,62

Amendment XIV 47,49,50,55,

(Cont.) 59,60,61,62

Other: VIII, X, XIII . 47,50

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D. OPINIONS BELOW

No Opinions, either in the official or unofficial reports have been delivered by the Courts below in the instant matter.

The Appellate Court issued only two Orders, one correcting its own error nunc pro tunc in the entry date of the JUDGMENT OF DISSOLUTION OF MARRIAGE, in its Rule 23 Order entered March 5, 1985, and the other dismissing Wife's appeal in vague terms, Appendix (A)(1)-(3); (B)(1)-(3).

However, Opinions were entered in related prior appeals, the most important of which appears in part in the Appendix, pages (H)(1)-(3), Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73.

B. JURISDICTIONAL GROUNDS

I. Nature of the proceeding. In a related case preceding the instant matter, a JUDGMENT OF DISSOLUTION OF MARRIAGE was awarded Husband from Wife, on grounds of mental cruelty, in a marriage that is now of 39½ years duration. The three children whom she bore and raised, are grown. The JUDGMENT OF DISSOLUTION, which was entered in 1983 under old Illinois Law, Ill. Rev. Stat. (1981) Ch. 40, Par. 401, contained strong elements violating res judicata principles, that contradicted the Appellate Opinion in a prior case Husband had filed, Rosenbaum v. Rosenbaum, (First District, 1976), 38 Ill. App. 3d 1. Trial court ignored the "res judicata" factor when entering the JUDGMENT OF DISSOLUTION, and upon Wife's appeal, the Appellate Court of

Illinois, First District, Second Division, affirmed the trial court decision totally. However, during the appeal, the newer Illinois no-fault divorce law became effective, and under related decisions should have been applied, Ill. Rev. Stat. (1985), Ch. 40, Par. 401(a)(2).

Appellate Court denied Wife's request that it clarify which statute it had followed in its ORDER DISPOSING OF APPEAL UNDER ILLINOIS SUPREME COURT RULE 23 (no published Opinion was forthcoming despite a request for same), entered on March 5, 1985. The JUDGMENT OF DISSOLUTION does not fulfill the statutory requirements under the new law, however.

In its RULE 23 Order, Appellate Court erroneously referred to a JUDGMENT OF DISSOLUTION entered on December 12, 1983 (Appendix (K)(2)), which is a non-existent JUDGMENT, and this Order was relayed to trial court with the Appel-

late Mandate, which contained no instructions to the court below. Although it was the duty of Husband and his attorney to have the incorrect date corrected, no effort was made on the part of either to so do.

Upon reinstatement of the case in trial court, Wife immediately filed a Petition to have the JUDGMENT OF DISSOLUTION vacated (or altered, as a less desirable alternative), under Ill. Rev. Stat. (1985), Ch. 110, Sec. 2-1401, because of new facts, some of which are:

1. HELMUTH TEICHNER, Husband's "friend," who was his main witness against Wife during the divorce trial, was suddenly in possession of Wife's sterling-silver flatware (valued at $5,000-$6,000.00) which the Rosenbaum daughter, in whose possession it was for safekeeping, had reported stolen.

2. That TEICHNER had apparently severely terrorized Jody in the past, and her badly-broken front tooth (now repaired) may have been broken by him in an effort to make her comply with his demands, and she fears to tell the truth.

3. That Sherri Bronner, with whom Husband had obviously had an "affair" as disclosed by evidence below, was the sister of TEICHNER's wife.

4. That TEICHNER had confessed to a mutual acquaintance informally that he lied about Wife on the witness stand.

5. That a paper listing Wife as a one-half limited partner in the Shopping Center property where the Rosenbaum practice was conducted, which Husband stated "he knew nothing of," was still in existence, according to a recent report.

6. That three of the Judges be-

fore whom Wife appeared in trial court, had been linked with or convicted of illicit Court activities through the Greylord Court investigation in Chicago, Illinois.

7. Fraudulent concealment, perjury, duress, mistake, etc., in connection with the divorce trial were alleged in the Petition.

8. It had been reported to Wife recently that Husband apparently had suffered a severe cerebral hemorrhage in the past, and this accounted for his erratic behaviour when leaving the family home and afterward.[3]

9. Law was quoted to evidence the fact that the PETITION had been timely-

3/ In the past few months, Wife has been told by informed persons that Husband was on an airplane that flew over the Atlantic through an atomic cloud many years ago, a matter kept top-secret.

filed within the two-year time limitation period. That "disability" did not enable Wife to file the Petition earlier, and this "disability period" was required to be deducted from the elapsed period of time, at law.

10. That Wife's cost-of-living had greatly risen, although her standard of living had not improved; evidence was provided.

11. That Wife had been misinformed, and she recently learned that Social Security offset applied, and she could get only about one-third of the teacher's pension she anticipated, although the JUDGMENT OF DISSOLUTION relied on the small, but full, benefit. Other financial facts quoted in the JUDGMENT, which had been written by Husband's attorney, were incorrect, and the Judge of trial court signed it over her

strong objections.

12. Fraudulent concealment, which in Illinois has a 5-year time limitation period, was also quoted as applying to the Section 2-1401 PETITION.

13. A new case, which disputed the basis used in the JUDGMENT OF DISSOLUTION to determine Wife's share of marital property had appeared, In Re Marriage of Brooks (First Dist. October, 1985), 138 Ill. App. 3d 252, 259. This case determined the date of the informal separation of the spouses is NOT to be used to determine respective shares in marital property, but only the date the marriage was legally terminated. This is contrary to the JUDGMENT OF DISSOLUTION (Appendix (I)(3) in which Wife got about 10%.

14. A new statute, ILLINOIS SUPREME COURT RULE 19, effective August 1,

1986 had since become applicable to the case, as Wife had challenged as unconstitutional certain Illinois family law statutes, Ill. Ann. Stat. (1986-1987), Ch. 110-A, Par. 19, and further proceedings were required.

15. That Wife required the aid of the Court to secure from the Internal Revenue Service, all Forms 1099 filed on Husband's behalf by investment companies, to secure knowledge of additional assets. This aid had originally been denied to Wife in her discovery, and despite the fact, she had discovered about $700,000.00 in marital assets, although Husband had admitted to only about $75,000-$100,000, upon sworn oath.

16. That Wife had improperly been denied a Change of Venue for hearing on her Section 2-1401 PETITION, which was considered a new proceeding at law.

ETC.

Wife's request for an evidentiary hearing on her Section 2-1401 PETITION was denied, although the request was substantiated with valid law (Appendix (P)(2).

Eventually Wife learned that if a JUDGMENT provides the court has retained jurisdiction to carry out the provisions of the decree (as the JUDGMENT OF DISSOLUTION does), the case must be remanded by Appellate Court, which it did not do in its Mandate. Therefore, using this decision in Woodrow v. Quaid, (1920), 292 Ill. 27, 32, 126 N.E. 583, she filed a MOTION TO VOID ALL ORDERS ENTERED TO DATE DUE TO LACK OF PROPER JURISDICTION, which trial court denied (Appendix (I)(7); Appendix (P)(4).

Meanwhile, Circuit Court Judge Ryan who had heard all matters after reinstatement of the case in trial court,

suddenly died. He had been in impaired health throughout, frequently telling Wife he could not read her documents because of his bad eyesight. The case was transferred to Associate Judge Julia Nowicki for completion, who heard Wife's MOTION RE NEW REASON WHY THIS COURT LACKS PROPER JURISDICTION TO ENTER ORDERS IN THIS CAUSE. The Motion was based on the fact that the Appellate Mandate was defective because it referred to a non-existent trial court JUDGMENT. This Motion was also denied (Appendix (P)(6).

Wife reintroduced the issues that had not previously been ruled on, in trial court after reinstatement of the case. These included the unconstitutionality of the new no-fault divorce law in Illinois, as well as the Separate Maintenance Act, Ill. Rev. Stat.

(1985), Ch. 40, Secs. 401(a)(2),402 respectively, citing appropriate law to substantiate the request. This also included her request for a Declaratory Judgment to establish fully her rights as a Wife and Mother at common law and regular law, as the issue was important to the JUDGMENT FOR DISSOLUTION which she sought to void. All requests for adjudication on unresolved issues were denied (Appendix (P)(1).

When Appellate Court corrected its error in its May 19, 1987 Order, and then proceeded to dismiss Wife's appeal, Wife filed a PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the Alternative, PETITION FOR LEAVE TO APPEAL with the Supreme Court of Illinois. That Court denied Wife's PETITION, and all subsequent Motions, in UNSIGNED ORDERS, a fact which she

also appeals (Appendix D, E, F).

II. Dates of Judgments for Which Review is Sought.

1. The Order entered by the Appellate Court of Illinois, First District, Second Division correcting its important error nunc pro tunc, and stating Appellant was caused no prejudice thereby, on May 19, 1987, (Appendix A).

2. The Order entered by the Appellate Court of Illinois, First District, Second Division, that dismissed Appellant's appeal in vague terms, and denied her costs and expenses, dated May 19, 1987, (Appendix B).

3. Order entered by the Appellate Court of Illinois, First District, Second Division, denying JEAN ROSENBAUM's PETITION FOR REHEARING, dated June 16, 1987, (Appendix C).

4. Unsigned Order entered by

by the Supreme Court of Illinois denying JEAN ROSENBAUM's PETITION FOR APPEAL, on October 7, 1987, (Appendix D).

5. Unsigned Order entered November 13, 1987, by the Supreme Court of Illinois denying JEAN ROSENBAUM's Motion for Leave to file a motion for reconsideration of the Order denying her PETITION FOR APPEAL, (Appendix E).

6. Unsigned Order entered December 1, 1987, denying JEAN ROSENBAUM's request for signed Orders, (Appendix F).

The NOTICE OF APPEAL was left with the Appellate Court of Illinois, First District, Chicago, Illinois, where the Record on Appeal and Appellate Record reside, on December 21, 1987, which date is stamped on the Notice of Filing.

The NOTICE OF APPEAL was mailed for timely-filing to the Clerk of the Supreme Court of Illinois in Spring-

field, Illinois on December 21, 1987, and their filing date appears as December 29, 1987, in answer to inquiry.

III. Statutory Provisions Conveying Jurisdiction on This Court.

The statutory provisions conveying jurisdiction on this Court are 28 U.S.C. §1257(2)(3), 28 U.S.C. §2101(c), 28 U.S.C. §2103, 28 U.S.C. §2106, and 28 U.S.C. §2403(b), which may be applicable, as follows:

"28 USC§1257: Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows: (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

"28 USC§1257(3): By writ of certiorari, where the validity of a ..... State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of,

or commission held or authority exercised under, the United States."

"28 USC §2101(c): Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. A Justice of the Supreme Court for good cause shown may extend the time for applying for a writ of certiorari for a period not exceeding sixty days."

"28 USC §2103: If an appeal to the Supreme Court is improvidently taken from the decision of the highest Court of a State, or of a United States court of appeals, in a case where the proper mode of a review is by petition for certiorari, this alone shall not be ground for dismissal, but the papers whereon the appeal was taken shall be regarded and acted on as a petition for writ of certiorari and as if duly presented to the Supreme Court at the time the appeal was taken ....."

"28 USC §2106: The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate or set aside or reverse any judgment, decree or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order, or require such further proceedings to be had as may be just under the circumstances."

"28 USC §2403(b):
(b) In any action, suit or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality."

There has been drawn in question in the lower Courts the validity of the following Illinois statutes on the ground they are repugnant to the Constitution of the United States. By totally ignoring the issues, the Appellate Court of Illinois, First District, and the Supreme Court of Illinois have, in effect, in their

decisions, upheld and favored their validity:

1. Public Act 83-954, effective July 1, 1984, an amendment to Ill. Rev. Rev. Stat. (1983), Ch. 40, Sec. 401, the Illinois Marriage and Divorce Act, the amendment now permitting divorce at the whim of one spouse only after a two-year separation, irregardless of other family conditions. Appellant hereto provided evidence in the Record that the sponsor of the amendment in the Illinois Senate, State-Senator William Marovitz, misrepresented the Act to Senate Committee where it was under consideration, and it was adopted under the influence of his erroneous description of no-fault divorce (Appendix Q).

2. Ill. Rev. Stat. (1983), Ch. 40, Sec. 402, Legal Separation, also a part of the Illinois Marriage and

Divorce Act. This Act requires a spouse who is legally entitled to support from the other partner, to legally separate the family, which can lead to loss of other family rights, to get support.

This appeal is submitted for docketing within 90 days from the Illinois Supreme Court's denial of Wife's PETITION FOR APPEAL AS A MATTER OF RIGHT, Or in the Alternative, PETITION FOR LEAVE TO APPEAL, its unsigned Order having been entered on October 7, 1987, (Appendix D). Pursuant to Supreme Court of United States Rule 28.4(c), it is stated that 28 U.S.C. §2403(b) may be applicable, and copies of this JURISDICTIONAL STATEMENT have been served upon the Illinois Attorney-General by mail (see PROOF OF SERVICE). To best of knowledge of this Appellant, no Illinois court has certified to the

State Attorney-General the fact that the constitutionality of the aforestated statutes of the State of Illinois has been drawn in question. However, under recently effective Illinois Supreme Court Rule 19, Ill. Ann. Stat. (1987), Ch. 110-A, Par. 19, (Appendix L), on September 29, 1987, Appellant mailed to the Illinois Attorney-General a document also filed with the Illinois Supreme Court, entitled AFFIDAVIT OF JEAN ROSENBAUM, UNDER ILLINOIS SUPREME COURT RULE 19, RE CONSTITUTIONALITY, pertaining to the Illinois statutes in question. Shortly thereafter, a letter was received from a member of the Attorney-General's staff, stating that office would not appear (Appendix (L)(2)).

If in the esteemed judgment of this Court it deems the Federal Constitutional issues involved do NOT fall

within its appellate jurisdiction, then Appellant requests that this JURISDICTIONAL STATEMENT be regarded and acted upon as a Petition for Writ of Certiorari, as permitted under 28 U.S.C. 2103 (see page 31, this document). This request is further sustained by the decision in Silkwood v. Kerr McGee Corporation (1984), 464 U.S. 238,246-48, 104 S.Ct. 615, which states:

> "Where case does not fall within Supreme Court's appellate jurisdiction, the jurisdictional statement may be treated as a petition for certiorari."

As Appellant has consistently pleaded in all Courts below that her cause was heard by a Judge in trial court, and Justices in Appellate Court, who were strongly biased against her cause and exhibited prejudice against her, the following case also applies: Bumper v. State of North Carolina

(1968), 391 U.S. 543, 545, 88 S.Ct. 1788, in which the Court decided "Certiorari would be granted to consider claims of violation of constitutional right to an impartial jury." The Court will please note that both Judge Daniel Ryan, and the Justices of the Second Division, Appellate Court of Illinois, First District denied Appellant's timely requests for a Change of Venue to different Judge/Justices, to which she was entitled under Illinois law, Ill. Rev. Stat. (1985), Ch. 110, Par. 2-1001; Ill. Rev. Stat. (1985), Ch. 110-A, Supreme Court Rule 370(a). The Judge/Justices also refused to voluntarily disqualify themselves because of their prejudice, when so requested by JEAN ROSENBAUM, (Appendix (O)(1); (P)(2)).

The statutes of the State of Illinois are intended to be applied equally to all persons, and when denying this

Appellant her statutory right to a Change of Venue, the Courts below also at the same time denied her right to due process and equal protection of law as established under the United States Constitution, Amendment XIV.

Furthermore, the issue of the repugnance to the United States Constitution the specified Illinois family law statutes contain, was re-entered in trial court in JEAN ROSENBAUM's MOTION FOR WRITTEN ADJUDICATION ON UNRESOLVED ISSUES, filed August 19, 1986. Trial court denied this motion in its Order entered September 3, 1986 (Appendix (P)). Appellate Court evaded the issue, thereby implying the trial court decision was correct, and the Illinois Supreme Court "majority rule" apparently came to the same conclusion. Social Security rights are Federally-granted,

and a State no-fault divorce law, that permits one spouse or Judge, on whim, to deprive the other spouse of children, Federal spousal Social Security benefits, (in many instances), and spousal inheritance and property rights, requires the serious attention of the United States Supreme Court. This is especially true when the issue has been evaded by the highest State courts, or vaguely determined by a non-explicit State Court Order. The Court is reminded that although some States with similar no-fault divorce laws have spousal community property laws in conjunction therewith, Illinois does NOT, and a strong element of lack of equal protection of the law exists, UNITED STATES CONSTITUTION, Amendments V, XIV, for married Illinois citizens and their children.

The Supreme Court of United States

has said in Brooklyn Savings Bank v. O'Neil, 324 U.S. 697, 703, 65 S.Ct. 895 (1945):

"Where a state court fails to pass on evidence or make findings of fact because under their respective views the facts referred to are immaterial, we are not relieved from the duty of examining the evidence for the purpose of determining what facts reasonably might be and presumably would be found therefrom by the State Court."

In Carlson v. Washington, 234 U.S. 103, 105-6, 34 S.Ct. 717, (1914), this Court pertinently stated:

"A State Court of last resort cannot, by omitting to pass upon basic questions of fact, deprive a litigant of the benefit of a Federal right properly asserted, and it is the duty of this Court, in the absence of adequate findings, to examine the record in order to determine whether there is evidence which furnishes a basis for such Federal right."

Other Federal grounds for this Court's jurisdiction also exist.

F. CONSTITUTIONAL PROVISIONS AND STATE OF ILLINOIS STATUTES INVOLVED.

The following Amendments to the Constitution of the United States are some of those primarily involved: I, V, IX and XIV, as follows:

AMENDMENT I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Mili-

tia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT IX.

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the

State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The State of Illinois Statutes involved are Ill. Rev. Stat. (1985), Ch. 40, Sec. 401(1)(2), and Sec. 402(a)(b), as follows:

"Sec. 401. Dissolution of Marriage.

The court shall enter a judgment of dissolution of marriage if at the time the action was commenced, one of the spouses was a resident of this State or was stationed in this State while a member of the armed services, and the residence or military presence had been maintained for 90 days next preceding the commencement of the action or the making of the finding; and if one of the following grounds for dissolution has been proved:

"(1) That without cause or provocation by the petitioner, the respondent was at the time of such marriage, and continues to be naturally impotent; or the respondent had a wife or husband living at the time of such marriage; or the respondent had committed adultery subsequent to the marriage, or has wilfully deserted or absented himself or herself from the petitioner for the space of one year, including any period during which litigation may have pended between the spouses for dissolution of marriage, or legal separation, or has been guilty of habitual drunkenness for the space of 2 years, or has been guilty of gross and confirmed habits caused by the excessive use of addictive drugs for the space of 2 years, or has attempted the life of the other by poison or other means showing malice, or has been guilty of extreme and repeated physical or mental cruelty, or has been convicted of a felony or other infamous crime or has infected the other with a communicable venereal disease. 'Excessive use of addictive drugs', as used in this Section, refers to use of an addictive drug by a person when using the drug becomes a controlling or a dominant purpose of his life; or

"(2) That the spouses have lived separate and apart for a continuous period in excess of two years and irreconcilable differences have caused the irretrievable breakdown of the marriage, and the court determines that efforts at reconciliation have failed or that future attempts at reconciliation

would be impracticable and not in the best interests of the family; provided that if the spouses have lived separate and apart for a continuous period of not less than 6 months next preceding the entry of the judgment dissolving the marriage, as evidenced by testimony or affidavits of the spouses, the requirement herein of living separate and apart for a continuous period in excess of 2 years may be waived upon written stipulation of both spouses filed with the clerk of the court."

"Sec. 402. Legal Separation. (a) Any person living separate and apart from his or her spouse without fault may have a remedy for reasonable support and maintenance while they so live apart.

"(b) Such action shall be brought in the circuit court of the county in which the respondent resides or in which the parties last resided together as husband and wife. In the event the respondent cannot be found within the State, the action may be brought in the circuit court of the county in which the petitioner resides. Commencement of the action, temporary relief and trials shall be the same as in actions for dissolution of marriage."

G. STATEMENT OF THE CASE.

In trial court, the court of first instance, the Federal issues were secondly raised on October 2, 1986, in Wife's timely-filed POST HEARING (TRIAL) MOTION TO VACATE JUDGMENT DENYING SECTION 2-1401 PETITION, which brought to the attention of the Court many matters overlooked by it, and new law, etc. Judge Ryan denied this Motion before he heard it, and upon Wife's objections to his methods, held only the most sketchy of hearings, openly scoffing at her allegation that her Federal Constitutional rights were being violated (as he had also done at the divorce trial in the preceding matter). In the POST-TRIAL MOTION (Trial Record, C.255-C. 284), at C.260, Wife challenged the Constitutionality of the Illinois no-fault divorce Act, Ill. Rev. Stat.

(1985), Ch. 40, Sec. 401, as repugnant to Amendments I, V and XIV of the United States Constitution, and her Federal rights thereunder. At C.261-C.266, she alleged violation of her Federal Constitutional rights under the U. S. Constitution, Amendments VIII, IX, X and XIII, in addition to the foregoing Amendments I, V and XIV, as they related to the complete denial of her SECTION 2-1401 PETITION and new related law with new evidence that had appeared, denial of her request for change of venue, denial of her timely-filed request to add an Amendment to her SECTION 2-1401 PETITION, denial of her request for an evidentiary hearing on the SECTION 2-1401 PETITION, and other trial court irregularities in Court procedure, as well as in the JUDGMENT OF DISSOLUTION. The POST-TRIAL MOTION was denied in entirety (R.C.329)(Appendix

(P)(3-a)). The no-fault divorce issue and issue of the Illinois Separate Maintenance Act, Ill. Rev. Stat. (1985), Ch. 40, Sec. 402, and their repugnance to the United States Constitution under the same Amendments had been initially submitted to trial court in Wife's MOTION FOR WRITTEN ADJUDICATION ON UNRESOLVED ISSUES, which it had also denied (Appendix (C. 193). To the POST-TRIAL MOTION was attached evidence that the issues had been argued in Wife's Appellate Brief (filed timely on July 27, 1984), but had not been ruled on by that Court, 84-0489.

Violation of Wife's Federal Constitu- rights are also mentioned in Wife's AMENDED NOTICE OF APPEAL filed in trial Court on September 16, 1986, and adds the supersedeas issue, because bondsmen refused to sell a supersedeas bond to a Pro Se litigant on usual percentage terms, and demanded the full amount, etc.

The Federal Constitutional issue that State-Senator Marovitz misrepresented no-fault divorce to the Senate Committee in Illinois hearing the matter, was raised in Wife's AMENDMENT TO POST-HEARING (TRIAL) MOTION TO VACATE JUDGMENT DENYING SECTION 2-1401 PETITION, and trial court denied the Amendment (Appendix (P)(3-a).

In the Appellate Court of Illinois, First District, the Federal Constitutional issues, for which Wife sought review, were first entered in her Docketing Statement filed November 3, 1986, for which no ruling was required, and included the question if Wife had been denied equal protection and due process of law. She next entered Constitutional issues under the U. S. Constitution, Amendments V, XIV, when she fought Attorney Berman's request for fees from her in Appellate

Court, in her MOTION TO STRIKE APPELLEE's MOTION filed April 8, 1987, and he was denied fees (Appendix (B)(2). Under the same Federal Constitution Amendments, V and XIV, Wife alleged violation thereof in Appellate Court relative to the supersedeas-stay of proceedings issue in her suggestions to a Motion, (Suggestions, page ii), filed September 23, 1986. Appellate Court denied her request for a practical supersedeas, as well as for a stay of proceedings, in its Order dated September 30, 1986. Wife's Appellate Brief, pp. 59-60, 46, etc. pertains to violation of her Constitutional rights under the United States Constitution, Amendments I, V, XIV, VIII, IX, X and XIII, but the Appellate Order did not rule on these issues explicitly. Most arguments in her Brief were ignored by that Court, when it affirmed the trial court's

judgments. All Federal Constitutional questions in Wife's pleadings, were substantiated by allegations that her rights under the State of Illinois Constitution were also being violated.

A sketchy outline of events in trial court appears in this document, pp. 17-28 entitled "Nature of the Proceeding." A brief outlined statement of the case in Appellate Court follows:

The three appeals were consolidated by Appellate Court for convenience, and are all related, each one being initiated at a different stage of the proceeding below to meet time-requirements, etc. The last filed appeal, No. 86-3319, primarily involves denial of the SECTION 2-1401 PETITION, and all matters involved thereafter, including reasons why trial court did not have proper

jurisdiction, due to the defective Appellate Mandate. Although Appellate Court was amenable to correcting its error (Appendix (A)(1)-(A)(3) on its self-initiated nunc pro tunc basis, it stated this caused no prejudice to Wife. It must be pointed out that a great deal of extra stress was heaped upon Wife by the necessity of pleading and briefing the error, as well as in the research required to do so efficiently. Furthermore, by ignoring the decision quoted in Wife's Appellate Brief, pp. 30-31, Wife was very much discriminated against by Appellate Court. The decision referred to, Place v. Improvement Federal Savings & Loan Association (1962), 24 Ill. 2d 245, 247, 181 N.E. 2d 94, involving a difference in dates and contents of a Court Order, ruled "that there can be no appeal from a non-existent Order." The

"place" decision is fully on point with the Rosenbaum issue, but with the authority of the Courts in question "turned the other way around." Wife should be entitled to have the same legal concept applied to the issue of the defective date in the Appellate final Order, with the Courts in reverse position. The concept that there can be no litigation resulting from a non-existent Order has also been followed in Blackwell v. Welti (1st Dist. 1964), 46 Ill. App. 2d 453, 455, 197 N.E. 2d 126. Furthermore, the Appellate Mandate, and its final Order, did not remand the case to trial court. Remand is necessary, under the decision in Woodrow v. Quaid (1920), 292 Ill. 27, 32, 126 N.E. 583, if trial court has retained jurisdiction in its final Judgment, to carry out the provisions of the decree. Trial court, in the instant Rosenbaum case, did

retain jurisdiction to carry out the prosions in the JUDGMENT OF DISSOLUTION which was written by Husband's attorney (Appendix (I)(7)). Therefore, on this point, too, the Appellate Mandate is highly deficient, and the Appellate Court Order entered May 19, 1987, made no effort to correct it. Therefore, the provisions of the JUDGMENT OF DISSOLUTION can still NOT BE PUT INTO EFFECT, and the Appellate Mandate can still be disregarded and voided.

However, it appears to be too much to ask of Appellate Court to void its own final Order, and the Order must come from a higher, and more impersonal source. It will be noted that by correcting its own Order nunc pro tunc, Appellate Court deprived Wife of a legal place in her family, spousal hereditary rights, and the right to support at her Husband's

standard of living; (his auto license plates now appear on a CADILLAC car)! Additionally, although the JUDGMENT OF DISSOLUTION gives to the three Rosenbaum children a large share of the marital property, it has been left under control of Husband, and they can be intimidated out of it. Conceivably, then, third parties could eventually get control of it.

That the Appellate final Order dismissing Wife's appeal does not contain a broad enough State ground to sustain its judgment; is evidenced by the very vague language the Order uses to justify the Appellate action:

> " .... it appearing to the Court that the points made in said Brief; in part are relitigation and reargument of points decided in previous appeals; in part are without basis or relief in law; and in part are without basis in fact or in the record."

As Wife spent long hours researching

valid law, finding omissions in the Record, and pursuing points not previously ruled on, all for the benefit of the Courts, as well as her own family welfare, and the Appellate Court utterly refused to revise said May 19, 1987 Order to more clearly express its findings so Wife could write a coherent PETITION FOR REHEARING, it is apparent the State grounds for dismissal are inadequate, (Appendix (B)(2); Appendix (C)(3).

Consequently, Wife's important Constitutional right to due process and equal protection of law, U. S. Constitution, Amendments V and XIV, has been additionally violated by Appellate Court. This Court also denied Wife's request for a Change of Venue-Panel (Appendix (C)(1), to which she was entitled at statutory law, Ill. Rev. Stat. (1985), Ch. 110, Sec. 2-1001; Ch. 110-A, Par.

370(a). The SECTION 2-1401 PETITION was a new proceeding at law, Ill. Rev. Stat. 1985, Ch. 110, Sec. 2-1401(b), and Wife was entitled, therefor, to one change of venue, which trial court denied. Under Supreme Court Rule 370(a), which specifies that process in reviewing court should be similar to that in trial court, Wife was still entitled to a change of "Panel," also denied by the Second Division of Appellate Court (Appendix (O)(1). In its Order entered September 30, 1986, that Court also denied Wife's request for an Order re Supersedeas and Stay; its Orders dated February 24, 1987 and October 21, 1986 denied Wife a Prehearing Conference to simplify the issues, as permitted under Court Rules, and denied Wife's MOTION TO ADD NEW, VERIFYING EVIDENCE TO RECORDS about her new $1,000 dental bill (for one tooth),

in its Order entered April 16, 1987. Appellate Court also denied Wife's MOTION TO ADD NEW, RECENT INFORMATION TO APPELLATE RECORD, PER AFFIDAVIT in its Order entered June 9, 1987. In this AFFIDAVIT, Wife relayed the recent disclosure to her that a close, personal business acquaintance of her brother-in-law who owns a TV station in Chicago, Illinois, had been linked to the Guyana scandal, in which many persons were poisoned by their "protector," and that a family member, possibly because of business reasons, had been active against Wife in "behind the scenes activity" in this case. Another AFFIDAVIT of Wife was filed on July 6, 1987, which revealed the new information that HELMUTH TEICHNER, who was the main witness against Wife in divorce trial, admitted publicly he had been playing a real-life European

Court game in the life of the Rosenbaums hereto, and in a real-life charade game, had been trying to undermine the marital relationship of the Rosenbaums in every way he could, for the benefit of his own relatives and or acquaintances. Appellate Court, on July 14, 1987, denied the AFFIDAVIT and its important facts. Appellate Court, in its Order entered July 14, 1987, refused to allow Wife to add corrections to her PETITION FOR REHEARING, upon the Appellate Court Clerk's refusal to permit her this statutory right, and in an Order also entered that date, refused to permit Wife to transfer funds from a Court-controlled bank account to another Bank for safekeeping, because the insured limit would soon be reached. The prejudice of Appellate Court towards Wife cause, is alleged by her with good reason, she believes, and

substantially violates her Constitutional right to due process and equal protection of law, United States Constitution, Amendments V and XIV.

Furthermore, the Opinion of the Appellate Court of Illinois, First District, in the original Rosenbaum v. Rosenbaum appeal, a prior case, (First Dist. 1976), 38 Ill. App. 3d 1, 13, 349 N.E. 2d 73 (Appendix (H)(3)), ruled that KURT ROSENBAUM, Husband, "left his family without a valid reason," and could not prove his lack of provocation, as law requires. The later Rosenbaum case, involved in the instant matter, ignored all principles of collateral estoppel and res judicata, and determined that KURT ROSENBAUM was without fault or provocation when leaving his family (Appendix (I)(2). In Brown v. Ohio, 432 U.S.161,166-67, 97 S.Ct. 2221 (1977), this Court ruled -- in connection with

Amendment V rights:

> "Even if two offenses are sufficiently different to permit imposition of consecutive sentences under this clause, successive prosecutions will be barred .... where second prosecution requires relitigation of factual issues already resolved by the first."

Under the Fourteenth Amendment to the United States Constitution, this Court stated, in Loving v. Com. of Virginia, 388 U.S. 1,7,12, 87 S.Ct. 1817, (1967) --

> "Under this Amendment, power of the State to regulate marriage is NOT unlimited."

The foregoing citation applies not only to equal rights re res judicata, but also to the issue presented herein as to the repugnance of no-fault divorce at whim of one spouse, Ill. Rev. Stat. (1985), Ch. 40, Par. 401(2), to the Federal Constitution, and the rights it conveys to citizens. Child v. Beame (D.C. N.Y. 1976) 412 F.Supp.

593, 602, using family law standards set by the United States Supreme Court, stated relative to Amendments I,IX,XIV:

"Constitutional right to privacy in any aspect of an individual's personal life, is protected against State intrusion.... The Supreme Court has frequently emphasized the importance of the family and its entitlement to protection, as a fundamental right. The integrity of the family has found protection in the Due Process clause of the Fourteenth Amendment .... the Equal Protection clause of the Fourteenth Amendment .... and the Ninth Amendment. And Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705 (1973) leaves no room to doubt that a "fundamental" right to freedom of, and privacy in, family life exists, whether derived from the First, Ninth or Fourteenth Amendment, or some combination thereof."

Wife believes the State of Illinois has overstepped its power and authority to establish marriage and divorce law, when it permits one spouse to be deprived of the family rights bestowed by Federal Court interpretation of Federal Constitutional rights, by the other spouse at whim. This is especially true

when it is considered that no-fault divorce was misrepresented to the State Legislature prior to its passage (Appendix (Q)), Senator Marovitz pretending it was by agreement of both parties to the marriage, and that it would not affect property rights of either.

Wife further states that Ill. Rev. Stat. (1985), Ch. 40, Par. 402 is overbroad amd unconstitutional under the identical Amendments to the United States Constitution, I, V, IX and XIV. It forces a spouse to legally separate the family to enforce a legal right to support, which causes jeopardy to the family. At no other place in law, does Wife find a legal precept that requires a litigant to forfeit one valuable right in order to enforce another! The concept violates all family law policy determined by the United States

Supreme Court when interpreting the Amendments to the Federal Constitution, and citizens' family rights thereunder.

H. THE QUESTIONS ARE SUBSTANTIAL.

The questions presented are sufficiently substantial and important enough to require the plenary consideration of this Court, with briefs on the merits and oral argument, for their resolution. Not only are all family-minded citizens of Illinois involved, as well as this Wife, the Appellant herein, but all family-minded citizens of the entire country. Most States look to Illinois, among others, for their guidance, and therefore, a decision that governs State/National interest, can and will affect the rest of the country. Following are some other reasons (but not all) the issues are important:

1. Family stability and warmth arising therefrom are important at all stages of life. Too-easy divorce causes emotional and financial instability among family members, and children must necessarily be exposed to new spouses and their circle of acquaintances, who are not always wholesome in their attitudes and habits.

2. An errant spouse, whose whims are too often heeded by a Court, can put the "family investment" of the other in jeopardy, and endanger the children, for whom BOTH spouses are responsible. Only a spouse knows the dangers -- these are not to be determined by a stranger in a State Legislature, who may be voting for a Bill in order to be re-elected with the influence of a devious sponsor of no-fault divorce, etc.

3. Strangers and plotters, can

"have their way," to the destruction and harm of more sincere individuals. Wife has been much damaged from such devious persons, as well as her children. She has been constantly shocked by the callous and officious attitudes of mere strangers intruding into her family problems (unasked), and trying to force a family "split" for their own material gain.

4. Wife finds that many young people today are afraid to marry and have children, because of the ease with which the entire family structure can be pulled out from under them, leaving them only with financial headaches. This also affects older people, who must set aside their hopes for grandchildren in their older age.

5. Husbands use "easy divorce" to "bully" wives, and some wives do it to Husband's too! Such dictatorships

are against American ideals, which uphold "equality," applicable to marriage.

6. Decisions affecting a family are made by one Judge, who often can be influenced by devious persons or bribes, i. e. the Greylord investigation in Chicago, Illinois, which convicted several Judges; Wife had appeared before some of them. They ignore State laws.

7. Children are emotionally amputated by divorce, and regress in their development. This leads to defiance of parental guidance, which then can lead to drug addiction and other bad habits. Wife knows of several divorcees who have, or have had, drug-addicted children. It becomes a permanent family problem all too frequently.

8. Emotionally amputated children are deliberately preyed upon by drug dealers and their ilk, and a parent who must be permanently employed

to meet a "divorce" situation cannot effectively handle the problem. ETC.

The legal separation Statute has been of utmost importance in this case. Wife has NEVER legally separated her family to secure support, and was forced out to work by the Courts at a time she had three children in traumatic shock at home. Severe complications arose as a result (not drug addiction), which have left permanent scars.

For the foregoing reasons, as well as others, this Court should note probable jurisdiction of this appeal.

Respectfully submitted,

Jean Rosenbaum

JEAN ROSENBAUM, Appellant,
acting Pro Se *

* See copy marked "Notarized Copy" for original signatures.

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)

January 2, 1988

NO.

SUPREME COURT OF THE UNITED STATES

October Term, 1987

IN RE THE MARRIAGE OF

JEAN ROSENBAUM,

Appellant, acting Pro Se,

and

KURT ROSENBAUM,

Appellee.

APPEAL FROM THE APPELLATE COURT

OF ILLINOIS, FIRST DISTRICT

JURISDICTIONAL STATEMENT

A P P E N D I X.

Jean Rosenbaum, Pro Se

1354 West Greenleaf Street

Chicago, Illinois 60626

973-6047 (312)

IN RE MARRIAGE OF ROSENBAUM - NO.

APPENDIX TO JURISDICTIONAL STATEMENT

TABLE OF CONTENTS

Page(s)

Appellate Court of Illinois,

Orders Delivered ..... (A)(1)-(C)

Supreme Court of Illinois,

Orders Delivered ..... (D)-(F)

List of Companion Cases, etc.

and Excerpts ..... (G)(1)-(L)(2)

Rosenbaum v. Rosenbaum,
(1st Dist. 1976, 38 Ill. App.
3d 1, 349 N.E. 2d 73 ..... (H)(1)-(3)

In Re Marriage of Rosenbaum,
No. 81 D 22050, JUDGMENT OF
DISSOLUTION OF MARRIAGE,
Excerpts ..... (I)(1)-(7)

In Re Marriage of Brooks,
(1st Dist., Oct.-Dec. 1985),
138 Ill. App. 3d 252 ..... (J)

Appellate Court of Illinois
Orders re In Re Marriage of
Rosenbaum, Appeal 84-0489 . (K)(1)(2)

New Statute, Ill. Ann. Stat.
(1986), Ch. 110-A, Rule 19. (L)(1)-(3)

Appendix (ii)

Page(s)

Judgments Appealed From .... (M)

Notice of Appeal, etc. ..... (N)(1)-(6)

Pertinent Orders Entered by Appellate Court of Illinois, First District, No. 86-2428.(O)(1)-(3)

Orders Entered by Circuit Court of Cook County, Ill...(P)(1)-(7)

Evidence, Official Transcript, Illinois Senate Committee (no-fault divorce). (Q)(1)-(3)

IN THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

IN RE: THE MARRIAGE OF

KURT ROSENBAUM,
Petitioner-Appellee,
v.
JEAN ROSENBAUM,
Respondent-Appellant.

No. 84-489

(C O P Y)

O R D E R

Upon consideration of petitioner-appellee's motion to strike and dismiss Nos. 86-2428, 86-2933 and 86-3319 and the Court having read the suggestions in support thereof and the responses thereto filed by respondent-appellant and being fully apprised in the premises hereby, FINDS:

1. That the notice of appeal filed by appellant, Jean Rosenbaum in 84-489 purports to be taken from "the JUDGMENT OF DISSOLUTION OF MARRIAGE

entered by the Circuit Court of Cook County, Illinois, Domestic Relations Division on December 15, 1983."

2. That this Court allowed appellant Jean Rosenbaum's motion to amend her notice of appeal which motion noted a different date, namely, December 16, 1983, as the entry of the Judgment of Dissolution.

3. That this Court in its Rule 23 Order entered in this case on March 5, 1985, made a purely clerical and typographical error in referring to the "Judgment of Dissolution" as having been entered on December 12, 1983.

4. That a certified copy of the docket entry made by the Domestic Relations Division of the Circuit Court Clerk's office (copy attached) shows that the correct date of entry and filing of the Judgment of Dissolution was

none of the foregoing dates, but actually December 19, 1983. See Ill. Rev. Stat. (1985), ch. 110A, par. 272.

5. That appellant Jean Rosenbaum has not been denied any procedural or substantive rights or remedies by virtue of the above-noted errors and her appeal and subsequent proceedings were in no way affected thereby.

Now therefore, the Court

ORDERS that the Rule 23 Order heretofore issued by this Court in appeal no. 84-489 on March 5, 1985, be and hereby is amended nunc pro tunc March 5, 1985 by changing the date mentioned in the Order on which the circuit court entered its Judgment of Dissolution, from December 12, 1983 to December 19, 1983, it appearing to the Court that neither party will be prejudiced in any respect by virtue of said mechanical change;

that said mechanical change is due solely to a typographical-clerical error, and that the change is based upon the records of the clerk of the circuit court of Cook County (Moore v. Shook (1916), 276 Ill. 47, 52, 114 N.E. 592; In re Estate of Young (1953), 414 Ill. 525, 534, 112 N.E. 2d 113; Bradley v. Burrell (1981) 97 Ill. App. 3d 979, 981, 424 N.E. 2d 15), said Judgment for Dissolution actually not having been entered and filed in the records of the circuit court until December 19, 1983, according to the Circuit Court Clerk's records. (Ill. Rev. Stat. 1985, Ch. 110A, par. 272.) No subsequent orders shall be deemed invalid by virtue of the foregoing corrections.

(Signed): ANTHONY SCARIANO,
Presiding Justice.

Dated:
May 19, 1987; JOHN J. STAMOS, Justice.
Entered:
May 19, 1987. ALLEN HARTMAN, Justice.

IN THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

IN RE THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	
Petitioner-Appellee,	)	
	)	No. 86-2428)
and	)	86-2933)
	)	86-3319)
JEAN ROSENBAUM,	)	
	)	(C O P Y)
Respondent-Appellant.	)	

O R D E R

This cause coming on before the Court for consideration of various motions filed by the parties, briefs and supporting memoranda, objections and responses, and the Court having read said documents and now being fully apprised in the premises, therefore, ORDERS

(1) Petitioner-appellee's motion filed April 3, 1987 for leave to file a supplemental record in this cause by adding thereto a petition and response in

regard to attorney's fees, be and the same hereby is denied. Accordingly, respondent-appellant's subsequent motion, filed April 8, 1987, to strike said motion is moot.

(2) That part of petitioner-appellee's motion, filed April 15, 1987, to strike and dismiss the consolidated appeals be and hereby is allowed, it appearing to the Court that the points made in said brief: in part are relitigation and reargument of points decided in previous appeals; in part are without basis or relief in law; and in part are without basis in fact or in the record.

(3) That part of petitioner-appellee's motion filed April 15, 1987, requesting assessment of attorney's fees and expenses be and the same hereby is denied.

(4) Respondent-appellant's motion

filed April 21, 1987, requesting that petitioner-appellee's motion filed April 15, 1987 be stricken and that she be awarded costs and expenses be and the same hereby is denied.

(Signed): ANTHONY SCARIANO,
Presiding Justice.

JOHN J. STAMOS, Justice.

ALLEN HARTMAN, Justice

Dated: May 19, 1987

Order Entered, May 19, 1987.

Appendix (C)

IN THE APPELLATE COURT OF ILLINOIS

FIRST JUDICIAL DISTRICT

IN RE: THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	
Petitioner-Appellee,	)	
	)	
and	)	NOS. 86-2428)
	)	86-2933)
JEAN ROSENBAUM,	)	86-3319)
	)	
Respondent-Appellant.	)	(C O P Y)

O R D E R

Respondent-Appellant's petition for rehearing is hereby denied.

(Signed): ANTHONY SCARIANO,
Presiding Justice.

JOHN J. STAMOS, Justice.

ALLEN HARTMAN , Justice.

Order Entered June 16, 1987

Dated: June 16, 1987

Appendix (D)

C O P Y

SUPREME COURT OF ILLINOIS

WEDNESDAY, OCTOBER 7, 1987

THE FOLLOWING CASES ON THE LEAVE TO APPEAL DOCKET WERE DISPOSED OF AS INDICATED:

No. 65581 - Kurt Rosenbaum, respondent v. Jean Rosenbaum, petitioner. Leave to appeal, Appellate Court, First District. (1-86-2428, 1-86-2933, 1-86-3319). Petition to appeal as a matter of right or leave to appeal, Denied.

- - - - - - - - - -

Appellant's NOTE: No signature on above notification.

NO. 65581
SUPREME COURT
STATE OF ILLINOIS

Kurt Rosenbaum,	)	
	)	
Respondent,	)	Appeal from
	)	Appellate Court
vs.	)	First District
	)	AC1-86-2428
Jean Rosenbaum,	)	
	)	
Petitioner.	)	(C O P Y)

ORDER

This matter coming on to be heard upon the motion by petitioner, pro se, for leave to file a motion for reconsideration of the order denying petition for leave to appeal, notice having been served upon the party and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the motion is DENIED.

(NOTE: No Signatures.)

FILED
November 13, 1987
Supreme Court Clerk

State of Illinois
SUPREME COURT CLERK
Supreme Court Building
Springfield, Illinois 62706

C O P Y December 1, 1987

Ms. Jean Rosenbaum
1354 West Greenleaf Street
Chicago, Illinois IL 60626

THE COURT HAS TODAY ENTERED THE FOLLOWING ORDER IN THE CASE OF:

No. 65581 - Kurt Rosenbaum, Respondent, v. Jean Rosenbaum, Petitioner.

The motion by petitioner, pro se, for orders signed by each Justice of this Court which deny her petition for leave to appeal and her motion for leave to file a motion for reconsideration of the order denying petition for leave to appeal is denied.

cc Berman, Roberts & Kelly (Edward A. Berman).

- - - - - - - - -

Appellant's NOTE: No signature on above notification.

COMPANION CASES, etc.

Excerpts from pertinent, related companion cases follow. The cases are:

1. *Rosenbaum v. Rosenbaum (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73.

*(This case in a prior Appellate Court of Illinois, First District, published Opinion, involves the same parties.)

2. Excerpts from original JUDGMENT of DISSOLUTION of MARRIAGE, entered December 19, 1983, IN RE MARRIAGE OF ROSENBAUM, from which the instant appeal stems. (A certified copy of the entire 20-page JUDGMENT OF DISSOLUTION will be filed separately with the Clerk of the United States Supreme Court, 81 D 22050).

3. In Re Marriage of Brooks (1st Dist. 1985), 138 Ill. App. 3d 252, new applicable law, (Appendix (J).

Appendix (G)(2)

Following, also, are the additional related matters:

4. Order entered March 21, 1985, by Appellate Court of Illinois, First District, in the prior appeal, wherein the Court refused to clarify if it had used the old Family Law, or the newly effective no-fault law when affirming the trial court JUDGMENT OF DISSOLUTION that ignored all res judicata principles, Appeal 84-0489, IN RE MARRIAGE OF ROSENBAUM, (Appendix (K)).

5. New Illinois Supreme Court Rule 19, relating to Notice of Claim of Constitutionality of a Statute, now effective and applicable to this case.

6. Letter from office of Attorney-General of Illinois, relating to Notice received under Illinois Supreme Court Rule 19, (Appendix (L)(2)).

KURT ROSENBAUM, Plaintiff-Appellee, v. JEAN ROSENBAUM, Defendant-Appellant, (1st Dist. 1976), 38 Ill. App. 3d 1, 349 N.E. 2d 73.

QUOTATION FROM ROSENBAUM V. ROSENBAUM (same parties) pp. 8-9. etc.

"It was also proved that in his first divorce suit, the one decided against him, Dr. Rosenbaum had alleged that he was living separate and apart from his wife as a single man without fault on his part. In the trial of this case, his lawyer conceded that the first suit adjudicated all the issues between the parties. One of the issues in that case was whether, as he had alleged, Dr. Rosenbaum was living separate from his wife without fault on his part. The same issue was submitted in this case when Dr. Rosenbaum made the same allegation and it was denied by Mrs. Rosenbaum. Therefore, from his explanation of why he left his home, and from the conceded effect of the prior adjudication, the question arises whether Dr. Rosenbaum left his family without a valid reason, and thus provoked the acts of his wife about which he now complains. This question must be answered from the

evidence in the record bearing in mind that he had raised it before in a case that went against him (citation). In a divorce case, whether there was or was not provocation is relevant in determining whether a plaintiff proves his case .... A divorce suit plaintiff who charges mental cruelty must allege and prove that he did not provoke the acts and conduct about which he complains.

Page 10. "After the children left their mother and went to live with him, Dr. Rosenbaum decided that he was no longer responsible for any part of the utility bills on the family home. He wrote a letter to his wife's doctor disclaiming responsibility for her medical bills. He wrote a note to Mrs. Rosenbaum telling her that she had to pay for her own expenses because he would no longer contribute to her support. We have examined the evidence, and find no justification for these unilateral judgments by Dr. Rosenbaum concerning his wife's duty and ability to bear part of the family expenses at one time and all of her support at another. It is true she was a part-time teacher and had some money of her own. But the duty of a husband to support his wife is imposed by law, Lyons v. Schanbacher, 316 Ill. 569; Vock v. Vock, 305 Ill. 432.

Page 13. "We are convinced that Dr. Rosenbaum did not prove .... lack of provocation. From his testimony .... he left his family without a valid reason. The institution of marriage would not exist in our society, if every husband were free to decide for himself that preservation of his sanity, whatever that means, requires that he leave his wife and children. ..... His income has progressively increased. His interests in matters vocational and avocational have not changed or diminished ..... From everything she (Wife) has filed here and below, there exudes a deep sense of indignation of her husband's desertion of her, his construction of her reactive conduct as mental cruelty, and his success in using that construction to obtain a divorce on terms that deprive her of benefits she claims should be hers after 27 years of marriage. ..... Therefore, we conclude that the Judgment granting Dr. Rosenbaum a divorce on grounds of mental cruelty was contrary to the manifest weight of the evidence (citations)."

Appellant's NOTE; The foregoing decision entered by the Appellate Court of Illinois, First District, previously, reversed a prior divorce decree won by KURT ROSENBAUM, but was ignored later.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, COUNTY DEPARTMENT, DOMESTIC RELATIONS DIVISION.

IN RE THE MARRIAGE OF	(ENTERED:
KURT ROSENBAUM,	December 16,
Petitioner,	1983;
vs.	Judge Ryan.)
JEAN ROSENBAUM,	NO. 81 D 22050
Respondent,	
acting Pro Se.	COPY

JUDGMENT OF DISSOLUTION OF MARRIAGE

THIS CAUSE having been assigned for trial and having come on to be heard as a contested matter on the grounds for dissolution of the parties' marriage as alleged by KURT ROSENBAUM, petitioner, in his Petition for Dissolution of Marriage filed herein, and upon the response thereto of the respondent, JEAN ROSENBAUM, on all property rights arising out of this

in marriage in Chicago, Cook County, Illinois on June 27, 1948.

4. That three children were born to the parties, namely: JAY ROSENBAUM, born August 3, 1949; RICHARD ROSENBAUM, born November 9, 1951; and JODY ROSENBAUM, born March 23, 1954, all of whom are emancipated. No children were adopted. The respondent is not now pregnant.

5. That the parties ceased cohabitating together as husband and wife in the Fall of 1965, and have not cohabitated as husband and wife since that date to the present time; the parties have been living separate and apart from one another since that time, without fault or provocation on the part of the petitioner.

6. The petitioner, KURT ROSENBAUM, has proved from the testimony of the parties, testimony of witnesses, and the demeanor and conduct of the respondent, by a preponderance of the evidence that respon-

includes part of the deposits at the Calumet National Bank and Stein Roe & Farnham Bond Fund totaling approximately $46,711.43, are non-marital assets, being the result of the judgment for partition, and the interest earned on those funds is likewise non-marital. (For purposes of division of property, all other assets held by petitioner as trustee for one or more of the children are found to be marital). Further, about $20,000 of petitioner's assets are the accumulation of the German Pension Fund proceeds and are non-marital.

5. This case is most unusual as a consequence of the long separation of the parties of approximately 18 years which is strikingly similar, while not quite the same, to actual legal separation under Illinois law, and the acquisition of assets by the petitioner without any significant contribution on the part of the respondent. Quite to the contrary, the

Chicago Board of Education, but that upon the conclusion of this litigation, she will have significantly more time in which to earn a living from teaching or from some other endeavor. Respondent will also be receiving a pension from the Teachers' Retirement System of $160.00 per month or $1,920.00 per year. The court also observes that the respondent has, and will have by virtue of this judgment, assets approaching $150,000, and that she has in the past two years according to her Federal Income tax returns earned approximately $6,500.00 a year from unearned income which the court reasonably anticipates will continue in the future. Upon the conclusion of this proceeding, one half of the Keystone Fund stock and the Amalgamated Bank account, and the interest which will be earned thereon, will inure to the respondent. This should give her additional income at 10% per annum (?)

light of her health, age, and reasonable needs (although the court concludes that she should receive at least $14,000 a year of income frpm her investments assuming that the respondent maintains the same diligent investment policy for her funds and moneys awarded herein that she seens to have followed in the past), petitioner shall pay to the respondent $500.00 per month on the first of each month for four years (or forty-eight months) and $350.00 per month thereafter until her death, or that of petitioner, as and for permanent maintenance which shall be taxable to her and deductible to petitioner on his income tax returns. All motions for temporary and for permanent maintenance and for payment of dental and other bills will be denied.

11. The parties have also acquired certain household furniture, furnishings, jewelry and personal effects. While the

shall be responsible for her dental and other bills incurred by her.

I. All pending motions of respondent for temporary and permanent maintenance, for payment of dental and other bills, for further discovery, and other pending open motions are denied (as).[2]

K. Each of the parties is hereby ordered to execute such deeds, assignments or other documents which may be necessary or required to effectively vest sole and exclusive title in any of the above property in the other party.

L. That any further right of claim by either party against the other for spousal maintenance and support be and the same are hereby barred, extinguished

2/ There is no paragraph (J) in the Judgment of Dissolution of Marriage.

and forever terminated.

K. That this court retains continuing jurisdiction of the parties hereto and the subject matter hereof for purpose of enforcing the provisions of this Judgment.[3]

DATED: ENTER:

Daniel Ryan
J U D G E

No. 83 D 1541906

3/ There are two paragraphs "K" in the Judgment of Dissolution of Marriage.

$230,000 in lieu of any interest she had in any of the properties. The $230,000 was to be paid by Harry in annual installments over 17 years without any interest on the unpaid balance. The court further awarded Maureen $225 per week as maintenance, reviewable every 36 months, and awarded $25,180 in attorney fees and costs to Maureen's attorneys. Harry was ordered to pay $21,000 of the fee award.

Harry subsequently filed a motion for reconsideration of the supplemental judgment, which was denied by the court.

I

●1, 2 On appeal, Harry first argues that the trial court abused its discretion in classifying the following assets as marital: Excellent Builders, the Kedzie Avenue building in which Excellent is located, condominium Unit 20E on Lake Shore Drive, miscellaneous stocks, Baythorn Development, the Nyvatex Oil Company lease and the 1976 tax refund of $26,000.

In Illinois, all property acquired during the marriage is presumed marital unless excepted by statute. (Ill. Rev. Stat. 1983, ch. 40, para. 503(a), (b).) The burden is on the party seeking to rebut this presumption to prove by clear evidence that the property is statutorily excepted. (*In re Marriage of Cook* (1983), 117 Ill. App. 3d 844, 453 N.E.2d 1357.) Here, Harry contends that each of the above assets were acquired either after the judgment of dissolution or after the date of the parties' actual physical separation on March 10, 1965. After carefully reviewing the record, we have found no evidence that any of the assets which the court found to be marital were acquired subsequent to the date of the dissolution in October 1978. Harry's suggestion that the date of the parties' separation should be used as the termination date of Maureen's marital property rights is baseless. For us to hold that a *de facto* termination extinguishes marital property rights would create, in effect, "common law divorce." Law and policy will not support such a result.

II

Harry next argues that the valuation and distribution of the marital assets were erroneous. Specifically, he urges that the trial court

IN THE APPELLATE COURT, STATE OF ILLINOIS, FIRST DISTRICT.

IN RE THE MARRIAGE OF	
KURT ROSENBAUM,	(C O P Y)
Petitioner-Appellee,	
and	NO. 84-0489
JEAN ROSENBAUM,	(Pertinent Order, prior
Respondent-Appellant,	appeal.)
acting Pro Se.	

ORDER

This cause coming on to be heard this day upon JEAN ROSENBAUM, Appellant's THREE-PART MOTION, and the Court having been advised in the premises;

IT IS HEREBY ORDERED:

1. The Motion for Clarification of Order Disposing of Appeal is hereby

ALLOWED ____ DENIED X

The Order Disposing of Appeal was determined under Ill. Rev. Stat. (1983), Ch. 40, Sec. 401, as it existed prior to the effective date of Public Act 83-954, July 1, 1984; as it existed after the effective date of P.A. 83-

(over)

Appendix (K)(2)

954, July 1, 1984. _____ _____.

Presiding
Justice JOHN J. STAMOS

Justice MAURICE PERLIN

Justice ALLEN HARTMAN

DATED: March 21, 1985.

- - - - - - - - - - - -

March 5, 1985 | NO. 84-489 | 2nd Division

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE: THE MARRIAGE OF	) Appeal from the
	) Circuit Court of
KURT ROSENBAUM,	) Cook County.
	)
Petitioner-Appellee.	)
	) Honorable
vs.	) Robert Buckley and
	) Daniel Ryan,
JEAN ROSENBAUM,	) Judges Presiding.
	)
Respondent-Appellant.	)

COPY

ORDER DISPOSING OF APPEAL

UNDER SUPREME COURT RULE 23

On December 12, 1983, the circuit court of Cook County entered an order dissolving

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered February 21, 1986.

(Deleted material is struck through and new material is underscored except for the rules which are entirely new.)

Effective August 1, 1986, new Rules 19 and 187 are adopted and Rules 315(b) and 773(b) are amended as follows:

...

New Rule 19

Rule 19. Notice of Claim of Unconstitutionality

(a) **Notice Required.** In any cause or proceeding in which the constitutionality of a statute, ordinance or administrative regulation affecting the public interest is raised, and to which action or proceeding the State or the political subdivision, agency, or officer affected is not already a party, the litigant raising the constitutional issue shall serve an appropriate notice thereof on the Attorney General, State's Attorney, municipal counsel or agency attorney, as the case may be.

(b) **Contents and Time for Filing Notice.** The notice shall identify the particular statute, ordinance or regulation, and shall briefly describe the nature of the constitutional challenge. The notice shall be served at the time of suit, answer or counterclaim, if constitutionality is raised at that level, or promptly after the constitutional question arises as a result of a circuit or reviewing court ruling or judgment.

(c) **Purpose of Notice.** The purpose of such notice shall be to afford the State, political subdivision, agency or officer, as the case may be, the opportunity, but not the obligation, to intervene in the cause or proceeding for the purpose of defending the constitutionality of the law or regulation challenged. The election to intervene shall be subject to applicable provisions of law governing intervention or impleading of interested parties.

Adopted February 21, 1986, effective August 1, 1986.

NEIL F. HARTIGAN
Attorney General
State of Illinois
Chicago
60601

C O P Y

October 7, 1987

Jean Rosenbaum
1354 West Greenleaf Street
Chicago, IL 60626

Dear Ms. Rosenbaum:

Thank you for notifying the Attorney General regarding your appeal as to the constitutionality of the Illinois no-fault divorce statute. The Attorney General always encourages citizens to take an active role in our legal system.

The Attorney General receives many requests each month to intervene on behalf of private citizens such as yourself. Unfortunately, the laws of Illinois and office resources limit the situations in which we may actively participate.

We have carefully reviewed your ap-

peal, and have concluded that the Attorney General will be unable to intervene on your behalf at this time.

If our office can be of any assistance to you in the future, please contact me.

Sincerely,

(Signed): MOSHE JACOBIUS, Chief
General Law Division

JUDGMENTS APPEALED FROM.

The texts of the main Judgments appealed from appear elsewhere in this Appendix, and in the interest of brevity, are not repeated herein. They are:

I. Orders entered by Appellate Court of Illinois, First District:

1. Entered May 19, 1987, Appendix (A)(1)-(A)(3);

2. Entered May 19, 1987, Appendix (B)(1)-(B)(3).

3. Denial of PETITION FOR REHEARING, entered June 16, 1987, Appendix (C).

II. UNSIGNED Orders entered by Supreme Court of Illinois:

4. Entered October 7, 1987, Appendix (D).

5. Filed November 13, 1987, Appendix (E), (denying reconsideration).

6. Entered December 1, 1987, Appendix (F).

NO. 65581

IN THE SUPREME COURT OF ILLINOIS

IN RE THE MARRIAGE OF	
KURT ROSENBAUM,	Consolidation of Appellate Court Appeals, Nos. 86-2428; 86-2933; 86-3319.
Petitioner-Appellee,	
Respondent,	
and	
JEAN ROSENBAUM,	(Stamped: Filed Appellate Court, December 21, 1987.)
Respondent-Appellant,	
Petitioner,	(C O P Y)
acting Pro Se.)	

NOTICE OF FILING

To: Edward A. Berman, Attorney; 35 East Wacker Drive, #3400; Chicago, Illinois 60601; c/o Berman, Roberts & Kelly.

On December 21, 1987, I mailed for timely filing to the Clerk of the Supreme Court of Illinois, Supreme Court of Illinois, Supreme Court Building, Springfield, Illinois 62706, two copies of a Notice of Appeal (to the Supreme Court of United States), a copy of which

is attached hereto and herewith served upon you. Two copies of the identical Notice of Appeal have also been delivered to the Clerk of the Appellate Court of Illinois, Appellate Court of Illinois, First District, Richard J. Daley Center, 28th Floor, Chicago, Illinois 60602, this same day.

(Signed) JEAN ROSENBAUM, Petitioner, acting Pro Se.

- - - - - - - - -

NOTE:

JEAN ROSENBAUM'S "AFFIDAVIT RE PROOF OF SERVICE" also attached thereto.

NO. 65581

IN THE SUPREME COURT OF ILLINOIS

IN RE THE MARRIAGE OF	
KURT ROSENBAUM,	Consolidation of Appellate Court Appeals, Nos. 86-2428; 86-2933; 86-3319.
Petitioner-Appellee,	
Respondent,	
and	
JEAN ROSENBAUM,	(C O P Y)
Respondent-Appellant,	
Petitioner,	
acting Pro Se.)	

NOTICE OF APPEAL (To The Supreme Court of the United States.)

Notice is hereby given that the above named JEAN ROSENBAUM, Petitioner, acting Pro Se, hereby appeals to the SUPREME COURT OF THE UNITED STATES from the designated portions of the following Judgments and Orders, entered by the Appellate Court of Illinois, First

District, and the Supreme Court of Illinois:

1. APPELLATE COURT OF ILLINOIS, FIRST DISTRICT.

a) Separate Order entered May 19, 1987, paragraphs 3, 5 (page 1 thereof), and last paragraph (page 2 thereof). These paragraphs describe the Appellate Court's important, pertinent error in the date its ORDER DISPOSING OF APPEAL UNDER ILLINOIS SUPREME COURT RULE 23, entered March 5, 1985, (the error also appearing in its Mandate stemming therefrom),gives as the entry date for the JUDGMENT OF DISSOLUTION, as a purely clerical, typographical error. The paragraphs also state Jean Rosenbaum was not denied any rights by the error, that her appeal, etc., were not affected thereby, and the Court's mechanical correction did not create prejudice to her, all of which is appealed.

b) Another separate Order entered May 19, 1987, paragraph (2), allowing petitioner-appellee's motion, filed April 15, 1987, to strike and dismiss the consolidated appeals of JEAN ROSENBAUM, and describing her points as relitigation and reargument of points already decided earlier, or without basis in fact or record. Also, paragraph (4) denying costs and expenses to JEAN ROSENBAUM, etc.

c) Order entered June 16, 1987, denying JEAN ROSENBAUM's PETITION FOR REHEARING.

2. SUPREME COURT OF ILLINOIS:

a) Order entered October 7, 1987, denying JEAN ROSENBAUM's PETITION FOR APPEAL, No. 65581.

b) Order entered November 13, 1987, denying JEAN ROSENBAUM's Motion for Leave to file a motion for recon-

sideration of the Order denying her PETITION FOR APPEAL, No. 65581.

c) Order entered December 1, 1987, denying JEAN ROSENBAUM's request for signed Orders pertaining to the denial of her PETITION FOR APPEAL, and reconsideration of the denial.

This appeal is taken pursuant to 28 U.S.C. §1257(2), 28 U.S.C. §2101(c), 28 U.S.C. §2103, 28 U.S.C. §2106, 28 U.S.C. §2403(b), 28 U.S.C. §1257(3).

(SIGNED:) JEAN ROSENBAUM,
Respondent-Appellant,
Petitioner, acting
Pro Se.

(Copies of the aforedescribed Orders under appeal, which are attached to the filed copies of the NOTICE OF APPEAL, appear in the APPENDIX hereto, pages: (A)(1)-(3); (B)(1)-(3); (C) (D); (E); (F).

IN THE APPELLATE COURT, STATE OF ILLINOIS
FIRST DISTRICT

IN RE THE MARRIAGE OF	)	(Separate Appeal,
	)	No. 1.)
KURT ROSENBAUM,	)	
	)	
Petitioner-Appellee,	)	
	)	
and	)	NO. 86-2428
	)	
JEAN ROSENBAUM,	)	
	)	
Respondent-Appellant,	)	C O P Y
	)	
acting Pro Se.	)	

O R D E R

This cause coming on to be heard this day upon JEAN ROSENBAUM, Appellant's PETITION FOR CHANGE OF VENUE-PANEL, and the Court having read argument and been advised in the premises;

IT IS HEREBY ORDERED:

The PETITION FOR CHANGE OF VENUE is hereby Allowed: ____ Denied: X

(Signed): Justice Allen Hartman

Order Entered: Justice John J. Stamos

September 30, 1986. Justice Anthony Scariano

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN RE: THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	
Petitioner-Appellee,	)	Nos. 86-2428)
	)	86-2933)
and	)	86-3319)
	)	
JEAN ROSENBAUM,	)	
	)	(C O P Y)
Respondent-Appellant.	)	

O R D E R

This cause coming on for consideration of motions of both Appellant, Jean Rosenbaum, and Appellee, Kurt Rosenbaum, and the Court having read said motions, supporting documents and argument, and now being fully apprised in the premises, hereby, ORDERS:

(1) Appellant's motion to add new, recent information to appellate record, filed June 1, 1987, be and the same hereby is denied.

(2) Appellant's motion to revise

the order of May 19, 1987 dismissing the appeal, filed June 3, 1987, be and the same hereby is denied.

(3) Appellant's motion for an extension of time to file her petition for rehearing, filed June 3, 1987, be and the same hereby is denied.

(4) Appellee's motion to reconsider that portion of the order of May 19, 1987 denying assessment of attorney fees be and the same hereby is denied.

(5) Appellant's motion filed June 5, 1987 to strike Appellee's motion to reconsider that portion of the order of May 19, 1987 denying assessment of attorney fees be and the same hereby is stricken having been rendered moot by virtue of the order contained in paragraph 4 hereof.

(Signed): ANTHONY SCARIANO,
Presiding Justice.
Entered: JOHN J. STAMOS, Justice.
June 9, 1987. Allen Hartman, Justice.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, Domestic Relations Division.

IN RE THE MARRIAGE OF)
)
KURT ROSENBAUM,)
)
Petitioner,)
)
and) No. 81 D 22050
)
JEAN ROSENBAUM,)
)
Respondent,)
) (C O P Y)
acting Pro Se.)

O R D E R

This cause coming on to be heard this 3rd day of September, 1986, upon JEAN ROSENBAUM, Respondent's MOTION FOR WRITTEN ADJUDICATION ON UNRESOLVED ISSUES, and the Court having been advised in the premises; IT IS HEREBY ORDERED:

The MOTION FOR WRITTEN ADJUDICATION ON UNRESOLVED ISSUES is denied.

There is no just reason to delay enforcement or appeal of this Order.

(Signed): JUDGE DANIEL RYAN

Entered: September 3, 1986. (C.193)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, Domestic Relations Division.

IN RE THE MARRIAGE OF)
)
KURT ROSENBAUM,)
)
Petitioner,)
)
and) No. 81 D 22050
)
JEAN ROSENBAUM,)
)
Respondent,)
) (C O P Y)
acting Pro Se)

O R D E R

This cause coming on to be heard this 3rd day of September, 1986, upon JEAN ROSENBAUM, Respondent's (1) PETITION and related Affidavit filed under Ill. Rev. Stat. (1983), Ch. 110, Par. 2-1401, and Circuit Court Rule of Cook County, Illinois (1982), Rule VIII(b)(1); (2) MOTION FOR EVIDENTIARY HEARING; and (3) INSTANTER ORAL MOTION FOR CHANGE OF VENUE; and the Court having been advised in the premises;

IT IS HEREBY ORDERED:

1. The PETITION and related AFFIDAVIT of JEAN ROSENBAUM are denied.

2. The MOTION FOR EVIDENTIARY HEARING is denied.

3. The instanter ORAL MOTION FOR CHANGE OF VENUE is denied.

4. Petitioner's MOTION TO STRIKE SECTION 2-1401 PETITION is allowed.

There is no just reason to delay appeal or enforcement of this Order.

(Signed): JUDGE DANIEL RYAN

Entered: September 3, 1986.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, Domestic Relations Division.

IN RE THE MARRIAGE OF)
)
KURT ROSENBAUM,)
)
Petitioner,)
)
and) No. 81 D 22050
)
JEAN ROSENBAUM,)
)
Respondent,)
) (C O P Y)
acting Pro Se.)

O R D E R

This cause coming on to be heard this day upon JEAN ROSENBAUM, Respondent's (1) POST-HEARING (TRIAL) MOTION TO VACATE JUDGMENT DENYING SECTION 2-1401 PETITION, AMENDMENT TO POST-HEARING (TRIAL) MOTION TO VACATE JUDGMENT DENYING SECTION 2-1401 PETITION and related documents; and (2) MOTION FOR VOLUNTARY DISQUALIFICATION OF JUDGE with related documents; and the Court having been advised in the premises;

IT IS HEREBY ORDERED:

(1) The POST-HEARING (TRIAL) MOTION TO VACATE with its AMENDMENT thereto are denied;

(2) The MOTION FOR VOLUNTARY DISQUALIFICATION OF JUDGE is denied;

(3) The request for reasonable expenses contained in Respondent's REPLIES to RESPONSES to foregoing Motions is continued to a date not yet set.

There is no just reason to delay enforcement or appeal of this Order.

(Signed): JUDGE DANIEL RYAN

Entered: October 14, 1986.

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS, Domestic Relations Division.

IN RE THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	
Petitioner,	)	
	)	
and	)	No. 81 D 22050
	)	
JEAN ROSENBAUM,	)	
	)	
Respondent,	)	
	)	(C O P Y)
acting Pro Se.	)	

AGREED ORDER

This cause coming on to be heard this day upon JEAN ROSENBAUM, Respondent's MOTION RE ORDERS ENTERED SEPTEMBER 10, 1986, and the Court having been advised in the premises, and having read the STIPULATION entered into between the parties hereto on September 15, 1986;

IT IS HEREBY ORDERED:

The September 10, 1986 Order written by JEAN ROSENBAUM shall have added thereto the following phrase -- "There is no just reason to delay enforcement or ap-

peal of this Order." The Order now reads:

"IT IS HEREBY ORDERED:

1. The MOTION TO VOID ALL ORDERS ENTERED TO DATE DUE TO LACK OF PROPER JURISDICTION is denied;

2. The PETITION FOR CHANGE OF VENUE is denied;

3. The NEW MOTION RE STAY OF PROCEEDINGS, SUPERSEDEAS and CONTINUANCE, IF NECESSARY, DUE TO NEW FACTS, is denied.

4. The INSTANTER MOTION FOR LEAVE TO ADD AMENDMENT TO SECTION 2-1401 PETITION OF RESPONDENT, and (5) the AMENDMENT TO PETITION (FILED UNDER ILL. REV. STAT. (1985), CH. 110, PAR. 2-1401) are denied.

There is no just reason to delay enforcement or appeal of this Order."

(Signed): JUDGE DANIEL RYAN

Entered September 17, 1986. (C-242)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, Domestic Relations Division.

IN RE THE MARRIAGE OF	)	
	)	
KURT ROSENBAUM,	)	
	)	
Petitioner,	)	
	)	
and	)	No. 81 D 22050
	)	
JEAN ROSENBAUM,	)	
	)	
Respondent,	)	
	)	(C O P Y)
acting Pro Se.	)	

O R D E R

This cause coming on to be heard this 13th day of November, 1986, upon JEAN ROSENBAUM, Respondent's MOTION RE NEW REASON WHY THIS COURT LACKS PROPER JURISDICTION TO ENTER ORDERS IN THIS CAUSE, and the Court having heard argument and been advised in the premises;

IT IS HEREBY ORDERED:

Respondent's MOTION RE NEW REASON WHY THIS COURT LACKS PROPER JURISDICTION to ENTER ORDERS IN THIS CAUSE is hereby denied.

There is no just reason to delay enforcement or appeal of this Order.

(Signed): JUDGE JULIA NOWICKI

Entered: November 13, 1986

(C-371)

EXCERPT FROM OFFICIAL MICROFILMED TRANSCRIPT OF THIRD READING BEFORE ILLINOIS SENATE COMMITTEE (Re: Proposed No-Fault Divorce Act).

Page 228 - May 27, 1983.

SENATOR MAROVITZ: " ..... Senate Bill 189 adds the ground of irreconcilable differences to the existing eleven fault grounds in Illinois. But in order to use this, you would have to be ... the couple would have to be living separate and apart for at least two continuous years, and there would have to have been attempts at reconciliation, and the Judge would have to find that future attempts would be groundless. Forty-eight other states, forty-eight other states have such a no-fault provision, and still Illinois' divorce rate is no lower than in many other states. As a matter of fact, in states with no-fault

provisions, they have lower divorce rates than Illinois. What happens today is if a couple wants to get divorced, one party has to say, I have done absolutely nothing wrong. I am one hundred percent faultless, and this other party, or spouse, is one hundred percent at fault. It puts them in an adversarial position right away .. they begin calling ... throwing names and calling themselves ... accusing people of ... accusing their spouses of things. They have to file a complaint putting the fault grounds ... specifying the fault grounds, then they have to testify in open court with a court reporter as to what specific fault grounds there are. In many cases, they perjure themselves on the stand in order to find fault grounds, when in fact, they just want to get out. This would allow people

to ... to amicably part without saying, I have done nothing wrong in this marriage, my spouse has done everything wrong in this marriage. This doesn't affect property at all or property distribution at all. It could only be waived if there is agreement of both parties, only if there is agreement of both parties. And today, if both parties want to get divorced, all they have to do is agree ..... ."

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

APPELLANT'S AFFIDAVIT

I, JEAN ROSENBAUM, being first duly sworn upon oath, depose and state I am the Appellant, acting Pro Se, in the aforestated cause, that I have read the foregoing corrected JURISDICTIONAL STATEMENT by me subscribed, with its corrected attached APPENDIX, that I know the contents thereof, and the same are true in substance and in fact.

Jean Rosenbaum
JEAN ROSENBAUM, Appellant,
acting Pro Se.

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 22nd day of January, 1988. My commission expires: _____.

Clara N. Pardi
Notary Public

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)

OFFICIAL SEAL
CLARA N. PARDI
Notary Public, State of Illinois
My Commission Expires 5-26-89

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

APPELLANT'S AFFIDAVIT

I, JEAN ROSENBAUM, being first duly sworn upon oath, depose and state I am the Appellant, acting Pro Se, in the aforestated cause, that I have read the foregoing JURISDICTIONAL STATEMENT by me subscribed, with its attached APPENDIX, that I know the contents thereof, and the same are true in substance and in fact.

Jean Rosenbaum
JEAN ROSENBAUM, Appellant, acting Pro Se.

Subscribed and sworn to before me, a Notary Public of the State of Illinois, County of Cook, this 2nd day of January, 1988. My commission expires: 7/5/89.

Carmen Lopez
Notary Public

Jean Rosenbaum, Pro Se
1354 West Greenleaf Street
Chicago, Illinois 60626
973-6047 (312)

NO.

SUPREME COURT OF THE UNITED STATES

October Term, 1987

IN RE THE MARRIAGE OF

KURT ROSENBAUM,

Appellee,

and

JEAN ROSENBAUM,

Appellant, acting Pro Se.

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SUPREME COURT, U.S.

ON APPEAL FROM THE APPELLATE COURT

OF ILLINOIS, FIRST DISTRICT.

JURISDICTIONAL STATEMENT

Jean Rosenbaum, Pro Se

1354 West Greenleaf Street

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